

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201535015**

Release Date: 8/28/2015

Index Number: 7701.00-00, 9100.00-00,
9100.31-00

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact: _____, ID No. _____

Telephone Number: _____

Refer Reply To:
CC:PSI:B03
PLR-144634-14
Date:
May 12, 2015

Legend

X =

A =

Trust =

Country1 =

Country2 =

Date1 =

Date2 =

Date3 =

Dear _____ :

This letter responds to a letter dated December 4, 2014, and subsequent correspondence submitted on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations for X to file an entity classification election.

The information submitted states that Trust was formed on Date1 by A, and is administered under the laws of Country1. At the request of A, the trustee of Trust caused the formation of X under the laws of Country2 on Date2. X has been wholly owned by Trust since Date2. Trust had been treated as a wholly-owned grantor trust with respect to A for federal income tax purposes until A's death on Date3. X represents that it is a foreign entity that is eligible to elect to be treated as a disregarded entity for federal tax purposes, and that A, Trust, and X had always intended that X be classified as a disregarded entity effective beginning Date2. X further represents that A, Trust, and X consistently treated X as a disregarded entity since Date2. However, no entity classification election was timely filed for X to be treated as a disregarded entity for federal tax purposes.

Section 301.7701-3(a) provides that a business entity that is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) (an eligible entity) can elect its classification for federal tax purposes. Elections are necessary only when an eligible entity does not want to be classified under the default classification or when an eligible entity chooses to change its classification.

Section 301.7701-3(b) provides the default classification for an eligible entity that does not make an election. Section 301.7701-3(b)(2)(i) provides that, unless the entity elects otherwise, a foreign eligible entity is (A) a partnership if it has two or more members and at least one member does not have limited liability; (B) an association if all members have limited liability; or (C) disregarded as an entity separate from its owner if it has a single owner that does not have limited liability.

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b)(2) by filing Form 8832 with the appropriate service center. Under § 301.7701-3(c)(1)(iii), this election will be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified. The date specified on Form 8832 cannot be more than 75 days prior to the date on which the election is filed and no more than 12 months after the date the election is filed.

Section 301.7701-3(c)(2)(i) provides, in general, that an election made under § 301.7701-3(c)(1)(i) must be signed by (A) each member of the electing entity who is an owner at the time the election is filed; or (B) any officer, manager, or member of the electing entity who is authorized (under local law or the entity's organizational documents) to make the election and who represents to having such authorization under penalties of perjury.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I. Section 301.9100-1(b) provides

that the term “regulatory election” includes an election whose due date is prescribed by a regulation published in the Federal Register.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make the election. Section 301.9100-2 provides the rules governing automatic extension of time for making certain elections. Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief will be granted when a taxpayer provides evidence to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonable and in good faith, and (2) granting relief will not prejudice the interests of the government.

Based solely on the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, X is granted an extension of time of 120 days from the date of this letter to file a Form 8832 with the appropriate service center and elect to be treated as a disregarded entity for federal tax purposes, effective Date2. A copy of this letter should be attached to the Form 8832. A copy is enclosed for that purpose.

This ruling is contingent on X and its owners filing within 120 days from the date of this letter, to the extent necessary or appropriate, all required federal income tax returns and information returns (including amended returns) consistent with the requested relief granted in this letter. To the extent appropriate, these returns may include, but are not limited to, Form 8858, Information Return of U.S. Persons With Respect to Foreign Disregarded Entities. A copy of this letter should be attached to any such returns.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Internal Revenue Code and the regulations thereunder. In addition, § 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to X's authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____
Holly Porter
Branch Chief, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes